



November 29, 1999

Mr. Ric Gonzalez
Assistant City Attorney
Law Offices of Ronald J. Neiman, P.C.
386 West Main
P.O. Box 777
Lewisville, Texas 75067

OR99-3392

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131132.

The City of Lewisville (the "city") received a request for various information. You seek to withhold, under sections 552.101 and 552.108, portions of an offense/incident report which you indicate is responsive to the request. We assume that you have release the remainder of the requested material.

We understand you to claim the informer's privilege as a basis for withholding the information at issue, which is identifying information about certain individuals who spoke with the police. The informer's privilege is an aspect of section 552.101 of the Government Code, which excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to come under the protection of the informer's privilege, the information must relate to a person who reported a violation of a civil or criminal statute. *See* Open Records Decision Nos. 391 (1983), 191 (1978). From our review of the submitted information, we do not believe that the individuals whose identifying information you seek to withhold, can be said to have reported violations of law. Consequently you may not withhold such information under the informer's privilege.

Section 552.108 excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor
that deals with the detection, investigation, or prosecution of crime . . .
if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state [and]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

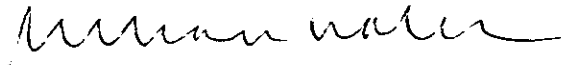
(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Having reviewed your arguments, we do not believe that you have established that in this instance release of the information at issue would interfere with law enforcement, or that the information otherwise falls within the scope of the section 552.108 exception. Therefore, the information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 131132

Encl. Submitted documents

cc: Mr. Larry Wood
Ms. Barbara Wood
Box 92
1915 Sandy Lake Road
Carrollton, Texas 75006
(w/o enclosures)